



## **CITY OF HAYWARD**

### **AGENDA REPORT**

Meeting Date 7/18/02  
Agenda Item 2

**TO:** Planning Commission

**FROM:** Carl T. Emura, Associate Planner

**SUBJECT:** Appeal of Planning Director's Approval of Variance No. PL-2002-0133 – Yvette Martin (Appellant), Linda Wilson (Applicant/Owner) – Request to Allow an Addition to the Existing House to be within the Side Yard Setback and to Exceed the Maximum Area Allowed to Encroach in the Required Rear Yard.

The Property is Located at 449 Balmoral Way in the Single-Family Residential (RS) District

#### **RECOMMENDATION:**

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, Section 15305, Class 5 (a), Minor Alteration in Land Use Limitations.
2. Deny the appeal and approve the Variance, subject to the attached findings and conditions of approval.

#### **DISCUSSION:**

The property is located on the southeast corner of Balmoral Way and Medinah Street. The lot is 87.5 feet wide by 62 feet deep. The existing house is 1700 square feet including a two car garage. The applicant is requesting to add a 320 square foot addition, aligning the new side wall with the existing side wall which is setback 7'-1" from the side property line where a 8'-9" side yard is required (10 percent of lot width) and to allow 380 square feet to encroach in the required rear yard when only 350 square feet is allowed. The house would expand to 2020 square feet.

The lot has an atypical lot layout in that the front property line is longer than the side property line. Most lots are the opposite with the front property line narrower than the side property line. This atypical layout reduces the amount of developable area, devotes a larger area for the required rear yard and has a wider side yard setback. As a comparison, the adjacent lot (441 Balmoral Way) is 55 feet wide by 91 feet deep (5005 square feet in size) with a development envelope (area less the setbacks) of 2,244 square feet, a side yard of 5'-6" and a required rear yard of 1,100 square feet. The applicant's

property is 5,456 square feet, has a development envelope of 1512.5 square feet, a side yard of 8'-9" and a required rear yard of 1,750 square feet. The addition would still provide for a generous rear yard of 1,370 square feet. The addition would be in proximity to the garage and dining room of the adjacent property (441 Balmoral Way). This property owner has submitted a letter supporting the variance.

The adjacent property is smaller than the subject property but has a larger development envelope largely due to the lot layout. The variance would allow the applicant to expand her home outside of the development envelope to an extent similar to other properties of comparable size.

The Planning Director approved the Variance on May 30, 2002. The appellant appealed the Planning Director's decision as she believed the application should follow the same process to the Planning Commission as her variance application. (The appellant requested a reduction of setbacks to build an addition at 31275 Hershey Way.) Staff recommended denial of the appellant's application because the required findings could not be made, and the Planning Commission upheld the Planning Director's decision on April 11, 2002. After reviewing the applicant's request further, the appellant withdrew the appeal. However, it is the City's policy to carry out the action as it cannot be known whether any other party may have otherwise appealed.

#### **ENVIRONMENTAL REVIEW:**

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15305, Class 5 (a), Minor Alterations of Land Use Limitations.

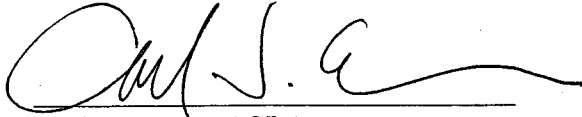
#### **PUBLIC NOTICE:**

On July 8, 2002, a Notice of Public Hearing was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records, the Fairway Park Neighborhoods Association, and the Fairway Park Neighborhood Task Force.

#### **CONCLUSION:**


In staff's opinion, there are special circumstances in that strict adherence to the Zoning Ordinance would deprive the applicant of privileges enjoyed by other property owners in the vicinity. The subject property, because of its atypical lot layout has a smaller development envelope than properties of comparable size. Allowing the 7'-1" side setback and the 380 square foot required rear yard encroachment would put the applicant on par with the neighboring properties.

*Prepared by:*

A handwritten signature in black ink, appearing to read 'C. T. Emura', written over a horizontal line.

Carl T. Emura ASLA  
Associate Planner

*Recommended by:*

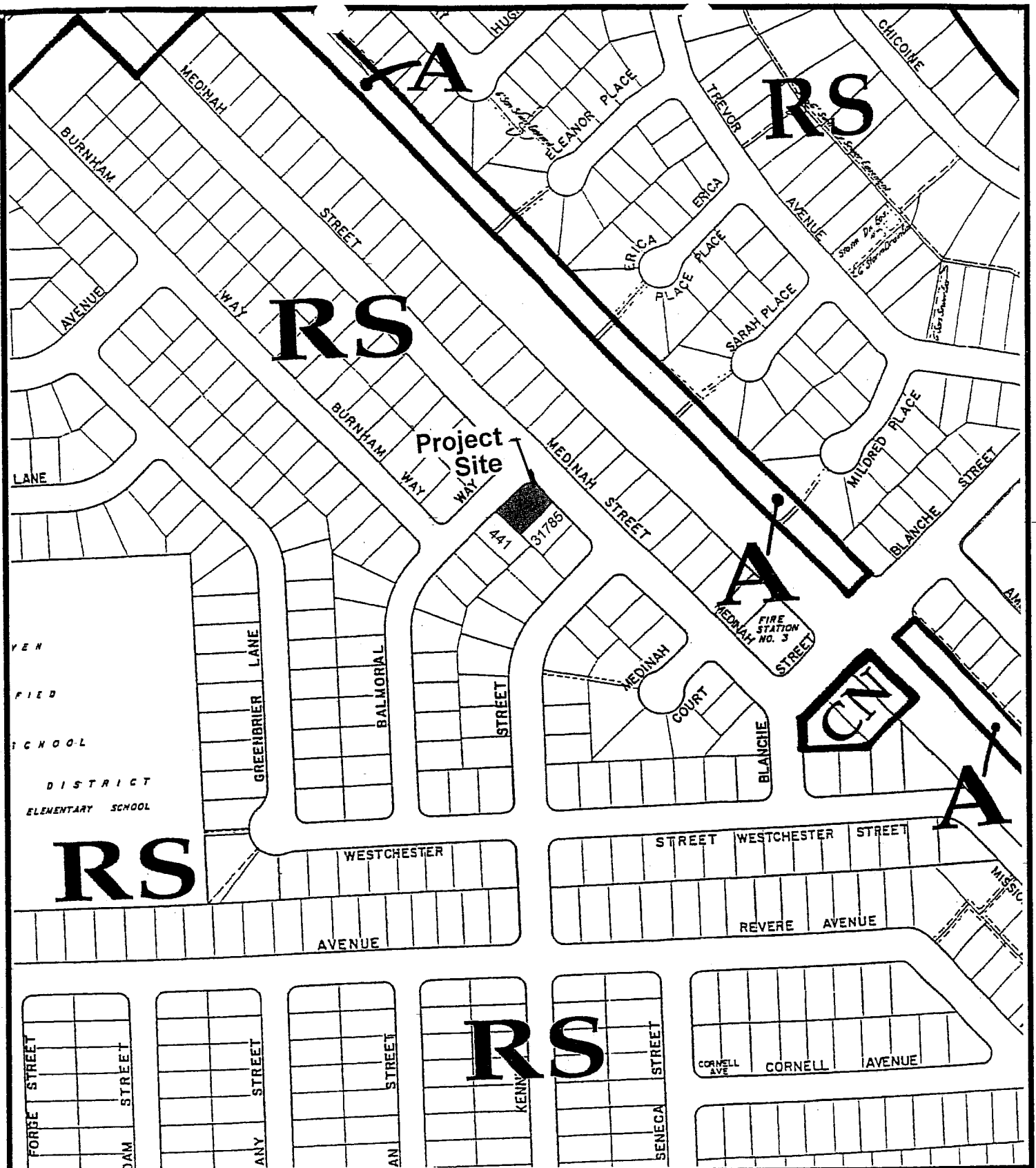
A handwritten signature in black ink, appearing to read 'Dyana Anderly', written over a horizontal line.

Dyana Anderly, AICP  
Planning Manager

Attachments:

- A. Area Map
- B. Plan/Elevation
- C. Letters of Support
- D. Findings and Conditions of Approval





### Area & Zoning Map

PL-2002-0133 VAR

Address: 449 Balmoral Way

Applicant: Linda Wilson

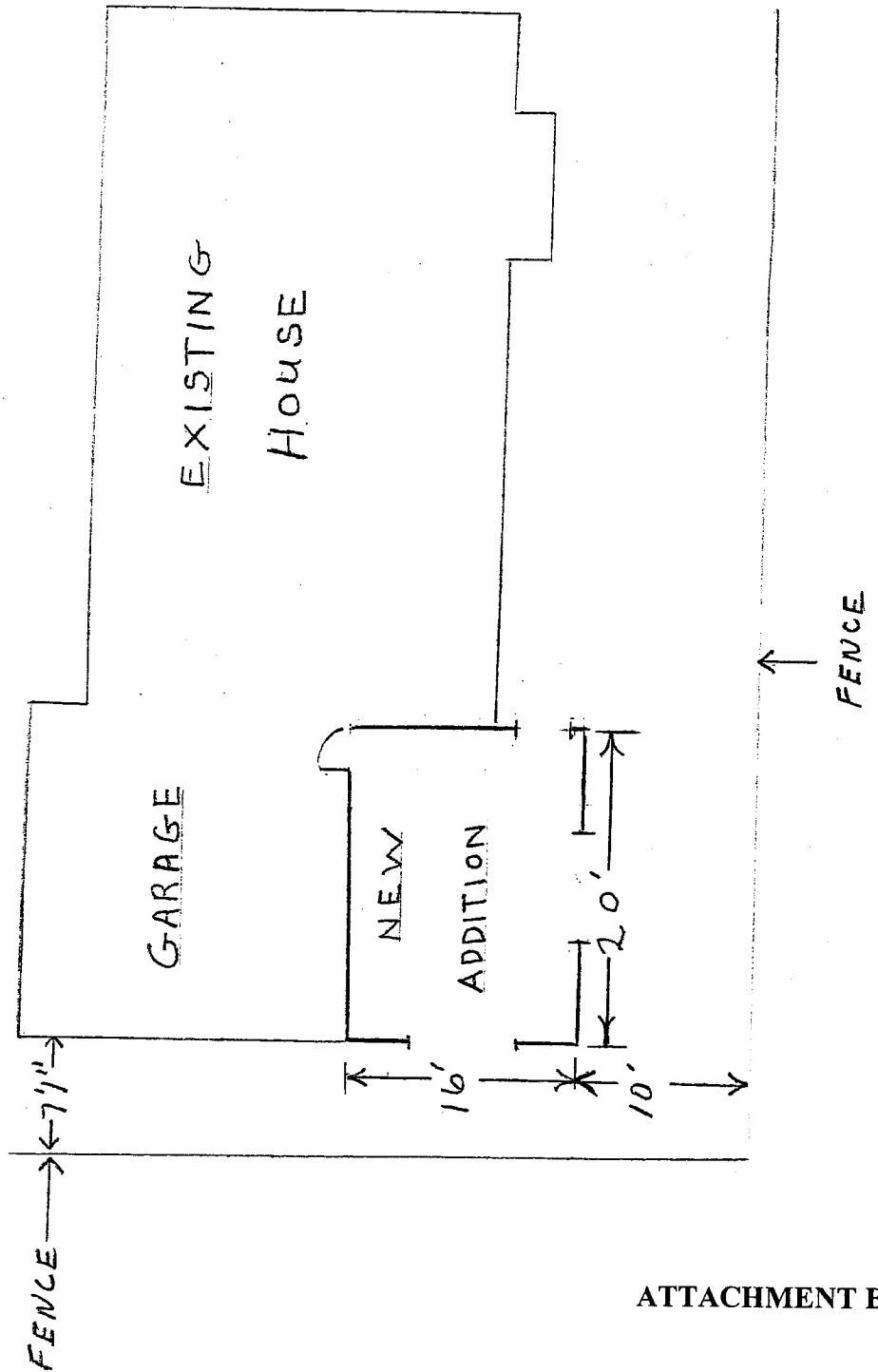
Owner: Fred & Linda Wilson

ATTACHMENT A



BALMORAL WAY

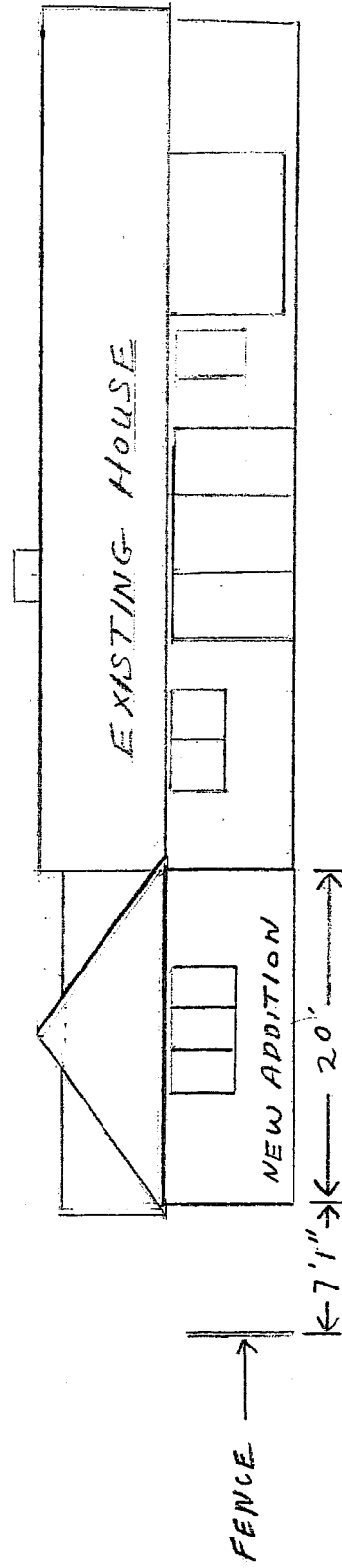
MEDINAH STREET



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MAY 07 2002

PLANNING DIVISION





January 26, 2002

To Whom It May Concern:

I Dave Aminaka resident and homeowner at  
3178 ~~51815~~ Medinah St., Hayward, CA have seen the building plans and  
approve of the proposed addition that our neighbors, Fred and  
Linda Wilson located at 449 Balmoral Way, Hayward CA are  
planning.

RECEIVED

MAR 04 2002

PLANNING DIVISION

ATTACHMENT C

February 3, 2002

To Whom It May Concern:

I Julie Kukpatuck + MCD resident and homeowner at  
441 Medinah St., Hayward, CA have seen the building plans and  
approve of the proposed addition that our neighbors, Fred and  
Linda Wilson located at 449 Balmoral Way, Hayward CA are  
planning.

RECEIVED

MAR 04 2002

PLANNING DIVISION

**FINDINGS FOR APPROVAL**

**Variance No. 2002-0133**

Linda Wilson (Applicant/Owner)

449 Balmoral Way

- A. Approval of Variance Application No. PL-2002-0133 authorizes an addition to an existing house within the side yard and to exceed the maximum area allowed to encroach in the required rear yard. This project is exempt from the provisions of California Environmental Quality Act pursuant to Section 15305, Class 5, (a), Minor Alterations in Land Use Limitations.
- B. There are special circumstances applicable to the property in that it has an atypical lot layout with the front property line longer than the side property line, considerably reducing the development envelope compared to lots of similar size.
- C. Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other properties. Homes in the vicinity of the proposed project and of similar size have a larger development envelope due to the configuration of the lot. Allowing the variance of the side yard and the encroachment in the required rear yard allows the applicant to expand the home to an extent similar to other properties of comparable size.
- D. The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning district in which the property is situated in that the house was built with a 7'-1" side setback while other homes with similar lot sizes are setback 5'-6" from the side property line. The resultant useable rear yard remains greater in area than the rear yard of a typical lot in the vicinity and in the zoning district.

## **CONDITIONS OF APPROVAL**

**Variance No. 2002-0133**

Linda Wilson (Applicant/Owner)

449 Balmoral Way

1. The proposed addition to the existing single-family house shall be constructed in accordance with the site plan labeled Exhibit "A". This approval is void one year after the effective date of approval unless a building permit application has been submitted and accepted for processing by the Building Official. Any modifications to the approved site plan or conditions shall require prior review and approval from the Planning Director.
2. Materials and colors of the addition shall be consistent with those of the existing house, subject to approval of the Planning Director.
3. The property owner shall obtain all necessary building permits from the Hayward Building Division.
4. Prior to final inspection/occupancy of the addition, all improvements and conditions of approval shall be completed to the satisfaction of the Planning Director.